

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

UNITED STATES OF AMERICA,) CR 11-06-H-DWM
)
 Plaintiff,)
)
)
vs.) ORDER
)
)
RAYMOND DEAN SMITH,)
)
)
 Defendant.)
)

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on September 6, 2011. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d

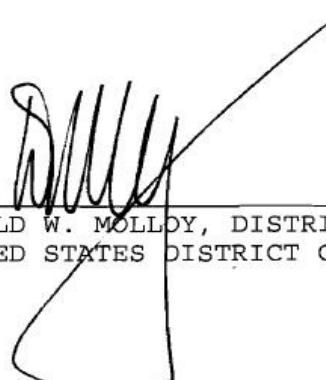
422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Raymond Dean Smith's guilty plea after Smith appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to three counts of sexual exploitation of children in violation of 18 U.S.C. § 2251(a) (Counts I, II, and IV) as set forth in the Superseding Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts III, V, and VI of the Superseding Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (dkt # 31), and I adopt them in full, including the recommendation to defer acceptance of the plea until sentencing when the Court will have reviewed the Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Raymond Dean Smith's motion to change plea (dkt # 23) is GRANTED.

DATED this 27th day of September, 2011.


DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT